

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Thomas L. Kelly	) Examiner:
		) A, Phi Dieu Tran
SERIAL NO.:	10/737,088	)
		) Group Art Unit: 3633
FILED:	December 16, 2003	)
		) Confirmation No. 5181
FOR:	HAIL DAMAGE-RESISTANCE ROOF	)
	ASSEMBLY AND METHOD FOR	)
	MAKING SAME	)

REQUEST FOR REFUND

Mail Stop 16  
Director of the U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attn: Refund Section, Accounting Division, Office of Finance

Sir:

In accordance with 37 CFR 1.26(a), Applicants respectfully request a refund of fees in the amount of \$760.00. On May 23, 2008, Applicant received a Notice of Non-Compliant Appeal Brief from the USPTO. This Notice indicated that Applicant's Amended Appeal Brief filed on March 21, 2008 was defective for the same reasons as indicated in a previous Notice of Non-Compliant Appeal Brief dated February 21, 2008, which was directed to Applicant's Original Appeal Brief filed January 24, 2008. Thus, because the Amended Appeal Brief was alleged to be defective for the same reasons as the Original Appeal Brief, Applicant was not afforded a time period for reply. For this reason, the time period starting from the Notice of Non-Compliant Appeal Brief dated February 21, 2008 remained, and Applicant was forced to pay 4 months of extension time at \$820.00, as opposed to the \$60.00 that would have been

required for any Amended Appeal Brief filed before July 23, 2008 (i.e. within two months of May 23, 2008).

However, Applicant respectfully submits that Applicant's Original Appeal Brief was NOT indicated to be defective for the same reasons as Applicant's Amended Appeal Brief. In fact, in the Notice of Non-Compliant Appeal Brief dated February 21, 2008 it was indicated that the Original Appeal Brief was defective for reason found only in Section C of Applicant's Arguments Section. This Notice actually stated that "the brief should include the claims, statu[t]es, and references with regards to the grounds of rejection presented (C). **An entire brief is not needed for this correction only the section found defective.**" (emphasis added) As Applicant was only directed to Section C, the was the only Section addressed and fixed by Applicant in the Amended Appeal Brief of March 21, 2008.

Referring now to the Notice of Non-Compliant Appeal Brief dated May 23, 2008, and subsequent explanatory conversation conducted with Examiner Phi D A, Applicant respectfully submits that the Notice was issued due to defective Sections B, D, and E of the Amended Appeal Brief. Section C of the Amended Appeal Brief was proper due to the amendments made in accordance with the Notice of Non-Compliant Appeal Brief dated February 21, 2008. Therefore, Applicant's Amended Appeal Brief filed on March 21, 2008 was NOT defective for the same reasons as indicated in a previous Notice of Non-Compliant Appeal Brief dated February 21, 2008. Accordingly, Applicant respectfully submits that the due date for a second Amended Appeal Brief should have been June 23, 2008, and Applicant should have only owed \$60.00 in extension fees for one month as opposed to \$820.00 for four months. For these

reasons Applicant respectfully requests a refund in the amount of \$760.00 be credited to  
Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By: /Daniel R. Gibson/  
Daniel R. Gibson  
Registration No. 56,539  
CANTOR COLBURN LLP  
20 Church Street  
22<sup>nd</sup> Floor  
Hartford, CT 06103  
Telephone (860) 286-2929  
Facsimile (860) 286-0115  
Customer No. 23413

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